

SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA) PROGRAM GUIDELINES

1. *POLICY*

It is the policy of the City of San Antonio to attempt to provide a remedy for past underutilization of Small, Minority, Women, African-American-owned business enterprises (S/M/W/AABE) and prevent ongoing underutilization of S/M/W/AABEs in the City's contracting process by ensuring full and equitable participation of S/M/W/AABEs in the provision of goods and services to the City on a contractual basis. Reasonable S/M/W/AABE contracting goals will be established for each project. Bids for construction contracts between \$25,000 and \$200,000 that have subcontracting opportunities and bids for construction contracts over \$200,000 should include S/M/W/AABE participation in an amount which equals or exceeds the S/M/W/AABE goals. **Only South Central Texas Regional Certification Agency (SCTRCA)-certified S/M/W/AABE contractors and subcontractors/suppliers will count toward the S/M/W/AABE contracting goals.**

2. *BIDDER OBLIGATION*

Bidders must ensure that **certified** S/M/W/AABEs have the maximum opportunity to participate in the performance of contracts funded in whole or in part by the City of San Antonio. The bidder shall take all necessary and reasonable steps (Good Faith Effort) to ensure **certified** S/M/W/AABEs have the maximum opportunity to compete and perform as subcontractors/suppliers. The bidder's good faith effort to meet the City's S/M/W/AABE contracting goals will be documented on the Small Business Program's List of Subcontractors/Suppliers or Good Faith Effort Plan (GFEP) forms. Good faith effort consists of the measures taken to identify and utilize small, minority, women, African – American owned or disadvantaged businesses for subcontracting opportunities. Nothing in the good faith effort requirement shall be construed to require the utilization of any S/M/W/AABE subcontractor/supplier who is not qualified or who does not submit the lowest responsible bid.

3. *REQUIRED FORMS*

A. LIST OF SUBCONTRACTORS/SUPPLIERS - For projects under \$200,000

- The complete name of each subcontractor/supplier.
- The certificate number of the **certified** S/M/W/AABE or N/A if the subcontractor /supplier is not **certified** by SCTRCA.
- The approximate percent and dollar amount of the subcontract.
- Attach certificates (SCTRCA)

B. GOOD FAITH EFFORT PLAN - For projects greater than \$200,000

All bidders must make a good faith effort to utilize **certified** S/M/W/AABE subcontractors/suppliers and document such effort on SBEDA Good Faith Effort Plan. To award a contract to a bidder who has failed to meet the project S/M/W/AABE contracting goals, the City must determine that the bidder made efforts to actively and aggressively seek to include **certified** S/M/W/AABE businesses. The City may consider the following guidelines, listed in Appendix A to 49 CFR section 23.45 (1981), in determining whether the bidder undertook good faith efforts to utilize **certified** S/M/W/AABE subcontractors/suppliers. These guidelines are not intended to be exclusive or exhaustive.

- Whether the contractor attended any pre-solicitation or pre-bid meetings scheduled by the recipient to inform S/M/W/AABEs of contracting and subcontracting opportunities.
- Whether the contractor advertised in general circulation, trade associations, and minority-focus media concerning subcontracting opportunities.
- Whether the contractor provided written notice to a reasonable number of specific S/M/W/AABEs that their interest in the contract was being solicited in sufficient time to allow the S/M/W/AABEs to participate effectively.
- Whether the contractor followed up initial solicitations of interest by contacting S/M/W/AABEs to determine with certainty if the S/M/W/AABEs were interested.

- Whether the contractor selected portions of the work to be performed by S/M/W/AABEs in order to increase the likelihood of meeting the S/M/W/AABE goals (including, where appropriate, breaking contracts into economically feasible units to facilitate S/M/W/AABE participation).
- Whether the contractor provided interested S/M/W/AABEs with adequate information about the plans, specifications, and requirements of the contract.
- Whether the contractor negotiated in good faith with interested S/M/W/AABEs, not rejecting S/M/W/AABEs as unqualified without sound reasons based on a thorough investigation of their capabilities.
- Whether the contractor made efforts to assist the S/M/W/AABEs in obtaining bonding, lines of credit, or insurance required by the recipient or contractor.
- Whether the contractor effectively used the services of available minority community organizations, minority contractors' associations, local, state, and federal minority business assistance offices, and other organizations which provide assistance in the recruitment and placement of S/M/W/AABEs.

C. REQUEST FOR APPROVAL OF CHANGE TO ORIGINAL AFFIRMED LIST OF SUBCONTRACTORS/SUPPLIERS

The City shall review for its approval all substitutions, deletions, and additions of subcontractors/suppliers during contract performance through a Request For Approval of Change to Original Affirmed List of Subcontractors/suppliers. If after award of the contract, the contractor is unable to utilize the subcontractors/suppliers specified at bid opening or requires additional subcontractors/suppliers, the contractor shall make good faith efforts to utilize **certified** S/M/W/AABEs in the substitutions and additions. The Request for Approval of Changes to Original Affirmed List of Subcontractors/suppliers shall be submitted to the Directors of Public Works or Capital Improvement Management Services (CIMS) and Economic Development for approval.

D. LETTERS OF INTENT

LETTER OF INTENT (LOT) ARE NOT REQUIRED FOR USE AT BID TIME. LOT MUST BE SUBMITTED PRIOR TO COUNCIL APPROVAL. THEY ARE ONLY INTENDED TO BE USED BY LOWEST QUALIFIED BIDDER.

4. GENERAL

City Ordinance number 2007-04-12-0396 details the Small Business Economic Development Advocacy Program. The Small Business Policy Program Office within the City's Economic Development Department will supply additional information and a Directory of **Certified** S/M/W/AABEs upon request (Ph. 210-207-3900). Information may also be obtained from the City's Plans & Records office (Ph. 210-207-8035) as well as the SCTRCA (Ph. 210-227-4722).

THE CITY OF SAN ANTONIO SMALL BUSINESS PROGRAM

1. **Small Business Participation**

Pursuant to Ordinance No. 2007-04-12-0396, it is the policy of the City of San Antonio to involve Small, Minority, Women and African-American Owned Business Enterprises (S/M/W/AABE) to the greatest extent feasible in the City's discretionary contracts. The intent and purpose of the policy is to ensure that S/M/W/AABE firms have the opportunity to compete for City contracts without discrimination on the basis of race, color, religion, national origin, age, sex or handicap. To accomplish the objectives of the Small Business policy, the City has established specific goals for local S/M/W/AABE participation in this contract.

2. **DEFINITIONS** related to the Small Business Program Provisions:

- a. **Small Business Program:** the Small Business Economic Development Advocacy ("SBEDA") Program governed by this ordinance and managed by the SMALL BUSINESS Program Office.
- b. **Small Business Enterprises (SBE):** a corporation, partnership, sole proprietorship or other legal entity, for the purpose of making a profit, which is independently owned and operated and which meets the U.S. Small Business Administration (SBA) size standard for a small business. All firms meeting these thresholds will be considered an SBE.
- c. **Local Business Enterprise (LBE):** a corporation, partnership, sole proprietorship, or other legal entity which is headquartered within Bexar County for at least one year. For a branch office of a non-headquartered business to qualify as an LBE, the branch office must be located in Bexar County for at least one-year and employ a minimum of ten (10) residents of Bexar County for use at the local branch office.
- d. **Minority Business Enterprise (MBE):** a sole proprietorship, partnership, or corporation owned, operated, and controlled by a minority group member(s) who has at least 51% ownership. The minority group member(s) must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as an MBE, the enterprise shall be headquartered in Bexar County or the San Antonio Metropolitan Statistical Area (the SAMSA) for any length of time, or shall be doing business in a locality or localities from which the City regularly solicits, or receives bids on or proposals for, City contracts within the MBES's category of contracting for at least one year.
- e. **Woman Business Enterprise (WBE):** a sole proprietorship, partnership, or corporation owned, operated and controlled by women who have at least 51% ownership. The woman or women must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as a WBE, the enterprise shall be headquartered in Bexar County or the SAMSA for any length of time or shall be doing business in a locality or localities from which the City regularly solicits or receives bids on or proposals for, City contracts within the WBE's category of contracting for at least one year.
- f. **African-American Business Enterprise (AABE):** a sole proprietorship, partnership, or corporation owned, operated and controlled by an African-American group member(s) who has at least 51% ownership. The African American Group member(s) must have operational and managerial control, interest in capital, expertise and earnings commensurate with the percentage of ownership and be legal residents or citizens of the United States or its territories. To qualify as an AABE, the enterprise shall be headquartered in Bexar County or the SAMSA for any length of time or shall be doing business in a locality or localities from which the City regularly solicits, or receives bids on or proposals for, City contracts within the AABE's category of contracting for at least on year.

3. **Goals for Small Business Participation**

The goals for the utilization and participation of SBE-MBE-WBE-AABE businesses on this contract are as follows:

MBE	24%
WBE	11%
AABE	1.5%
SBE	50%

Please note that a small business could be classified in multiple categories and thus their utilization could in theory be counted in each category of goals. For example, **Prime Contractor X** submits a proposal, which specifies that they intend to subcontract with Subcontractor A for 10% of the contract. Subcontractor A is certified by the City as an SBE and MBE (a male-owned Hispanic Business owner can be certified as an SBE and MBE). **Prime Contractor X** also intends to subcontract with Subcontractor B for 13% of the contract. Subcontractor B is certified by the City as SBE, MBE and a WBE (a female-owned Hispanic Business owner can be certified as SBE, MBE and WBE). In addition, **Prime Contractor X** also intends to subcontract 10% of the contract to Subcontractor C—a City certified SBE, MBE and AABE (a male-owned African-American business owner can be certified as both a MBE and as a AABE Business). **Prime Contractor X** is also classified as a local SBE. **Prime Contractor X's** compliance with the Small Business goals under this scenario would be as follows:

	City's Small Business Goals	Prime Contractor X's Compliance
MBE	24%	33%
WBE	11%	13%
AABE	1.5%	10%
SBE	50%	100%

Under this scenario, the contractor would be in full compliance with the Small Business policy.

Another example regarding compliance with the policy is as follows: **Prime Contractor Y** submits a proposal, which specifies that they intend to partner through a joint-venture agreement with Company D. Company D is certified by the City as both an SBE and MBE (a male-owned Hispanic Business—certified as an SBE and MBE). As part of their joint-venture agreement, Company D will perform on 32.5% of the contract. **Prime Contractor Y** also intends to subcontract 13% of the contract with Subcontractor F. Subcontractor F is a City certified SBE/MBE/WBE and AABE business. **Prime Contractor Y** is also classified as a local SBE.

Prime Contractor Y compliance with the Small Business goals would be as follows:

	City's Small Business Goals	Prime Contractor Y's Compliance
MBE	24%	45.5%
WBE	11%	13%
AABE	1.5%	13%
SBE	50%	100%

Under this scenario, the contractor would be in full compliance with the Small Business policy.

4. **List of Subcontractors/Suppliers Required (for use with contracts between \$25,000-\$200,000)**

Proposals shall include a List of Subcontractors/Suppliers (ATTACHED), which shall identify the particular SBEs, MBEs, WBEs and AABEs to be utilized in the performance of a contract awarded pursuant to this RFP.

5. **Good Faith Effort Required (for use with contract over \$200,000)**

Proposals shall include a Good Faith Effort Plan (GFEP—ATTACHED). The GFEP shall include specific documentation to utilize local, small, MBE-WBE-AABE businesses in a percentage, which equals or exceeds the above goals. **Any proposal that does not include the GFEP and does not receive approval of the GFEP by the Economic Development Department shall be declared non-responsive, and excluded from consideration**

6. **MBE-WBE-AABE Certification Required**

Only companies certified as MBE, WBE, or AABE through the South Central Texas Regional Certification Agency (SCTRCA), or as approved by the City of San Antonio Director of Economic Development, can be applied towards the contracting goals. Proof of certification must be submitted.

7. **Small Business Program Information**

Interested contractors/proposers are encouraged to contact the Small Business Outreach Office for information regarding the City's Small Business Program Policy. Please call (210) 207-3900 or FAX: (210) 207-3909.